

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

FRANK J. ASHLEY.

No. 2:20-cv-00300 GGH P

Petitioner.

ORDER

DARIN YOUNG,

Respondent.

Petitioner, a state prisoner proceeding pro se, has filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, together with a request to proceed in forma pauperis. This court will not rule on petitioner's request to proceed in forma pauperis.

Petitioner is incarcerated in Sioux Falls, South Dakota and was convicted in Pennington County. Both Sioux Falls and Pennington County are in an area embraced by the United States District Court for the District of South Dakota.

Pursuant to 28 U.S.C. § 2241(d), courts in both the district of conviction and the district of confinement have concurrent jurisdiction over applications for habeas corpus filed by state

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1 prisoners. Because petitioner was not convicted in this district, and is not presently confined
2 here, this court does not have jurisdiction to entertain the application.¹

3 Accordingly, in the furtherance of justice, IT IS HEREBY ORDERED that:

- 4 1. This court has not ruled on petitioner's application to proceed in forma pauperis; and
5 2. This matter is transferred to the United States District Court for the District of South
6 Dakota. 28 U.S.C. § 2241(d); 28 U.S.C. § 1406(a).

7 Dated: February 24, 2020

8 /s/ Gregory G. Hollows
UNITED STATES MAGISTRATE JUDGE

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¹ Petitioner contends that the Eastern District of California is the more appropriate forum because
28 pertinent witnesses reside in this district. However, the location of witnesses cannot confer jurisdiction in
habeas corpus.